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**FEDERAL ELECTION COMMISSION**  
999 E Street, N.W.  
Washington, D.C. 20463

**FIRST GENERAL COUNSEL'S REPORT**

**CELA**

MUR: 6864

DATE COMPLAINT FILED: Sept. 3, 2014

DATE OF NOTIFICATION: Sept. 10, 2014

LAST RESPONSE RECEIVED: Sept. 25, 2014

DATE ACTIVATED: Oct. 30, 2014

EXPIRATION OF SOL: Jun. 20, 2016 (earliest)  
Apr. 14, 2019 (latest)

ELECTION CYCLE: 2014

**COMPLAINANT:**

Lisa Selmon Vance

**RESPONDENTS:**

Nicholas Ruiz III for Congress and Danielle Ruiz in  
her official capacity as treasurer and in her  
personal capacity

**RELEVANT STATUTES AND  
REGULATIONS:**

52 U.S.C. § 30114(b)(1)<sup>1</sup>  
11 C.F.R. § 113.1(g)(1)(i)(H)  
11 C.F.R. § 113.1(g)(7)(i)

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**AGENCIES CHECKED:**

**I. INTRODUCTION**

The Complaint alleges that Danielle Ruiz, the wife of candidate Nicholas Ruiz III ("Ruiz III"), and the treasurer and campaign manager of his principal campaign committee, Nicholas Ruiz III for Congress (the "Committee"), was "grossly overpaid for managing a virtually

<sup>1</sup> On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 to the new Title 52 of the United States Code.

1 nonexistent campaign.” Specifically, the Complaint alleges that Ruiz and the Committee  
2 converted campaign funds to personal use in violation of the Act when the Committee made  
3 salary payments to her from November 2013 through April 2014 in excess of the fair market  
4 value of the services she provided to the campaign. Compl. at 1-2 (Sept. 3, 2014).

5 Based on the available information, it does not appear that the payments to Danielle Ruiz  
6 exceeded the fair market value for her services and therefore did not constitute “personal use”  
7 under the Act. Accordingly, we recommend that the Commission find no reason to believe  
8 Nicholas Ruiz III for Congress and Danielle Ruiz in her official capacity as treasurer and in her  
9 personal capacity, violated 52 U.S.C. § 30114(b)(1)(formerly 2 U.S.C. § 439a(b)(1)); 11 C.F.R.  
10 § 113.1(g)(1)(i)(H).

## 11 II. FACTUAL AND LEGAL ANALYSIS

### 12 A. Factual Background

13 On January 20, 2011, when Ruiz III was first seeking the Democratic nomination to  
14 represent Florida’s 24th Congressional District, the Committee registered with the Commission  
15 as Ruiz III’s principal campaign committee. *See* Statement of Organization (Jan. 20, 2011). In  
16 2012, Ruiz III sought the nomination in the 7th Congressional District. *See* Amended Statement  
17 of Organization (Jun. 18, 2012). Finally, Ruiz III was a candidate in the Democratic primary in  
18 the 9th Congressional District held on August 26, 2014. *See* Compl. at 1 (Aug. 14, 2014);  
19 Second Amended Statement of Organization (Jan. 8, 2014). Ruiz III lost that election. *Id.*  
20 Throughout these campaigns, Danielle Ruiz served as the Committee’s treasurer. *Id.*

21 The Complainant alleges that Ruiz’s \$500 per month salary was excessive because she  
22 was “the single largest recipient of campaign funds from [the Committee].” Compl. at 1.

23 According to the Complaint, Ruiz’s salary amounted to more than one-third of the campaign’s

1 operating expenditures over a nine-month period, *i.e.*, \$4,500 out of \$12,799.25, and the  
2 Committee paid more for her salary than it did for campaign advertising. *Id.* at 1-2. Based on  
3 these allegations, the Complainant concludes that Ruiz was “overpaid for managing a virtually  
4 nonexistent campaign” and therefore the payments to her constituted prohibited “personal use”  
5 violations under 11 C.F.R. § 113.1(g)(1)(i)(H). *Id.* at 2.

6 Respondents deny the allegations, assert that the Complainant misrepresents the facts,  
7 and argue that no violation of the Act has occurred. Resp. at 1-2 (Sept. 22, 2014). Respondents  
8 concede that from July 2013 through April 2014 (the period cited in the Complaint), the  
9 Committee paid Ruiz \$500 per month for managerial and treasurer services. Resp. at 1.  
10 Respondents assert that this amount is “far below” the fair market value for such services and  
11 rely on information from the internet showing that an average salary for a campaign manager or  
12 treasurer would be approximately \$30,000 to \$50,000 per year.<sup>2</sup> *Id.* Respondents further assert  
13 that Ruiz did not receive \$500 each month for the entire time she was manager and treasurer for  
14 the Committee, and that from May through August 2014, her salary averaged only \$200 per  
15 month. *Id.* Respondents argue that Ruiz earned the salary payments she received, noting that the  
16 campaign was covered on local television, radio, the internet, and in local advertising, as well as  
17 on “national election media blogs and radiocasts.” Resp. at 2. Respondents contest the  
18 allegation that the campaign was “non-existent” and maintain that the “campaign garnered more  
19 than a quarter of the entire electoral turnout in an incumbent primary election at a fraction of the  
20 costs typically associated with a U.S. congressional campaign.” *Id.*

<sup>2</sup> The Response does not mention any particular website to support this assertion.

**B. Legal Analysis**

The Act prohibits the conversion of campaign funds to personal use. 52 U.S.C. § 30114(b)(1)(formerly 2 U.S.C. § 439a(b)(1)). The Commission's regulations define "personal use" as "use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder." 11 C.F.R. § 113.1(g). The regulation enumerates certain expenses as *per se* "personal use," including "salary payments to a member of the candidate's family, unless the family member is providing *bona fide* services to the campaign. If a family member provides *bona fide* services to the campaign, any salary payment in excess of the fair market value of the services rendered is personal use." 11 C.F.R. § 113.1(g)(1)(i)(H); *see* Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7862, 7866 (Feb. 9, 1995)(Explanation & Justification)("Personal Use E&J"). A candidate's spouse is a "family member." 11 C.F.R. § 113.1(g)(7)(i).

The Committee's disclosure reports reflect 27 payments to Ruiz totaling \$11,500 from June 20, 2011, through April 14, 2014, for administrative, treasurer, accounting, management, and compliance services rendered to the Committee. *See* 2011-2014 Quarterly Reports; 2011-2013 Year-End Reports. The payments were disbursed to her as follows:

Date(s) of Payment	Amount
Jun. 20, 2011	\$300
Jul. 7, 2011; Aug. 2, 2011; Sept. 6, 2011; Oct. 5, 2011; Nov. 16, 2011; Dec. 8, 2011; Jan. 4, 2012; Feb. 2, 2012; Mar. 5, 2012; Apr. 9, 2012; May 3, 2012	\$400
Jun. 8, 2012	\$300
Jul. 5, 2012	\$500
Aug. 6, 2012	\$400
Sept. 6, 2012	\$400
Dec. 4, 2012	\$200
Jul. 19, 2013; Aug. 6, 2013; Sept. 15, 2013; Oct. 21, 2013; Nov. 1, 2013; Dec. 3, 2013; Jan. 15, 2014; Feb. 15, 2014; Mar. 31, 2014; Apr. 14, 2014	\$500

1 See 2011, 2012, 2013, 2014 Quarterly Reports; 2011, 2012, 2013 Year-End Reports.

2 The Response's statement that Ruiz was paid only \$200 per month from May through  
3 August 2014 is not reflected in the Committee's disclosure reports. Resp. at 1. In fact, the  
4 reports do not reveal any salary payments to Ruiz after April 2014. It is possible that these  
5 payments will be disclosed in the Committee's 2014 Year-End Report, which is due January 31,  
6 2015.

7 So long as Ruiz provided *bona fide* services to the Committee, and the salary payments  
8 made to her were not greater than fair market value for the services, then the payments are not  
9 considered personal use. See 11 C.F.R. § 113.1(g)(1)(i)(H); Personal Use E&J, 60 Fed. Reg. at  
10 7866; Adv. Op. 2001-10 (Jesse Jackson)(campaign committee could employ the candidate's wife  
11 as a consultant to provide *bona fide* services to the campaign at a rate that is no more than fair  
12 market value); Adv. Op. 1992-04 (Cortese)(campaign committee could hire candidate's wife and  
13 pay her a salary to compensate her for services provided to the campaign).

14 The record demonstrates that the payments to Ruiz were for *bona fide* services and did  
15 not exceed fair market value. First, it appears that Ruiz provided *bona fide* services as a  
16 campaign manager and treasurer to the Committee. The Complaint relies extensively on the  
17 purported fact that Ruiz III's campaign was "nonexistent" to establish that Ruiz did not provide  
18 campaign management or other services. But the Response's assertion that the Committee  
19 received national and local media attention, coupled with the fact that Ruiz III "garnered more  
20 than a quarter of the entire electoral turnout in an incumbent primary election" as a result of  
21 Ruiz's managerial services undermines the Complaint's main assertion.<sup>3</sup> Compl. at 2; Resp. at 2..

<sup>3</sup> According to the Florida Department of State Division of Elections, Ruiz garnered 25.7% of the vote in the August 26, 2014, Democratic primary election in Florida's 9th Congressional District. See <http://election.dos.state.fl.us/elections/resultsarchive/Index.asp?ElectionDate=8/26/2014&DATAMODE=>.

1 Additionally, Ruiz prepared and filed each of the Committee's disclosure reports since its  
2 inception in 2011, which shows that she provided treasurer services.

3 Second, the salary Ruiz received for these services does not appear to be in excess of fair  
4 market value for the services rendered. During the 2012 election cycle, the median salary  
5 payment to Ruiz was \$400 a month. *See* chart above. During the 2014 election cycle, the  
6 payments increased to \$500 a month. *See id.* Complainant does not, however, provide any basis  
7 to support her conclusion that this amount exceeded fair market value. On the other hand,  
8 Respondents contend that Ruiz received a below-market salary based on internet searches they  
9 performed. *Resp.* at 1. Our review of publicly available information indicates that salaries can  
10 vary greatly due to company, location, industry, experience and benefits, but during 2014, the  
11 median income for a campaign treasurer in the United States was \$86,000 a year, and \$57,000 a  
12 year for a campaign manager. *See* [http://www.simplyhired.com/salaries-k-campaign-treasurer-](http://www.simplyhired.com/salaries-k-campaign-treasurer-jobs.html)  
13 [jobs.html](http://www.simplyhired.com/salaries-k-campaign-manager-jobs.html); <http://www.simplyhired.com/salaries-k-campaign-manager-jobs.html>. While  
14 Respondents do not provide information relating to Ruiz's experience or education, a review of  
15 the Florida Department of State Division of Corporation records reveals that from 2011 through  
16 the present, she was also a treasurer of a nonprofit corporation called Progressive Leadership  
17 Council, Inc. *See*  
18 [http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail/EntityName/donnp-](http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail/EntityName/donnp-n11000009033-3c7937fd-f364-427d-ad0b-f22151f7a44c/progressive%20Page52)  
19 [n11000009033-3c7937fd-f364-427d-ad0b-f22151f7a44c/progressive%20Page52](http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail/EntityName/donnp-n11000009033-3c7937fd-f364-427d-ad0b-f22151f7a44c/progressive%20Page52). Thus, by  
20 2014, Ruiz had three years' experience as a treasurer, and the Committee was paying her \$500  
21 per month for both her treasurer and campaign manager duties. Therefore, Respondents'  
22 assessment that the salary payments to Ruiz were "far below market value" for the services  
23 rendered appears reasonable.

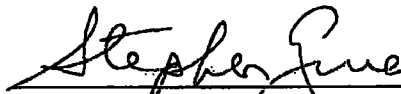
Given these facts, it appears that Ruiz provided *bona fide* services to the Committee and that she was not compensated above the fair market value for such services.<sup>4</sup> Accordingly, we recommend that the Commission find no reason to believe Nicholas Ruiz III for Congress and Danielle Ruiz in her official capacity as treasurer and in her personal capacity, violated 52 U.S.C. § 30114(b)(1)(formerly 2 U.S.C. § 439a(b)(1)); 11 C.F.R. § 113.1(g)(1)(i)(H), and close the file.


### III. RECOMMENDATIONS


1. Find no reason to believe Nicholas Ruiz III for Congress and Danielle Ruiz in her official capacity as treasurer and in her personal capacity, violated 52 U.S.C. § 30114(b)(1)(formerly 2 U.S.C. § 439a(b)(1)); 11 C.F.R. § 113.1(g)(1)(i)(H);
2. Approve the attached Factual and Legal Analysis;
3. Approve the appropriate letters;
4. Close the file.

1. 22. 15  
Date

BY:

  
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Deputy Associate General Counsel for  
Enforcement

  
William A. Powers  
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<sup>4</sup> See, e.g., Factual & Legal Analysis at 8-9, MUR 6510 (Kirk for Senate) (finding no reason to believe that a \$10,000 monthly retainer for media and consulting services, paid to a business owned by a person with whom the candidate allegedly engaged in a romantic relationship, constituted the conversion of campaign funds to personal use where the available information indicated that the campaign had received *bona fide* services at fair market value); see also MUR 5701 First GCR at 4-5 (Bob Filner for Congress) (no reason-to-believe finding that \$520,000 paid to candidate's wife for fundraising services over a five-year period violated the Act where the information showed that she provided *bona fide* work at fair market value).